



AMERICAN BAR ASSOCIATION RULE OF LAW INITIATIVE SUPPORT FOR LAW SCHOOLS, BAR ASSOCIATIONS AND JUDICIAL EXCHANGES IN MEXICO PROGRAM QUARTERLY REPORT CY 2011, QUARTER #2 NARRATIVE AID-523-10-A-00001

A. Introduction

Together with the enclosed results matrix, this is the 4th Quarterly Report of the *Support for Law Schools, Bar Associations and Judicial Exchanges in Mexico Program* ("Program") funded by the United States Agency for International Development ("USAID"). The report includes Program background, personnel updates, and a results summary, along with four (4) attachments; as well as activity details in the accompanying table.

This report is based upon the corresponding work plan approved by USAID on December 10, 2010.

Executive Summary

During the quarter, the Program has focused on planning and executing the following programmatic activities according to its work plan: i) the completion of the first oral trial advocacy training in Pachuca, Hidalgo; (ii) the second "Sister Courthouse" visit to El Paso, Texas; (iii) the second oral trial advocacy training in Mexico City, Mexico; (iv) a week-long Working Group study tour to Chicago; (v) advances on the Legal Education Reform Index ("LERI") and Legal Profession Reform Index ("LPRI"); (vi) logistical arrangements for the third "Sister Courthouse" visit to San Diego in August; and lastly, (vii) preliminary arrangements for the third oral advocacy training in Mexicali, Baja California. In addition, the Program continued meeting with the senior staff of Management Systems International ("MSI") and other USAID/TIES partners in order to coordinate the Program's activities with existing complementary initiatives and to facilitate high impact and sustainable results.

Program Background

The Program, supported by a USAID cooperative agreement awarded on June 3, 2010, aims to work closely with the Mexican private and public justice sector operators to: 1) create a sustainable mechanism to alleviate the state and federal government burden of retraining current and future justice operators in the new criminal justice system; and 2) enhance the ability of attorneys and judges to effectively and efficiently litigate and adjudicate cases, protect individual rights with appropriate accountability, and implement reforms effectively and rapidly.





The Mexican justice sector is at a critical juncture in its implementation of the accusatorial system. As is typical of such transitions, it has achieved notable successes while also encountering obstacles since the reform process was first ratified by President Calderon in 2008. To help promote effective implementation of the system going forward, the Program's efforts are oriented towards supporting private and public justice sector members' understanding of the dynamics underlying the accusatorial system, the substantial role they play in it, and actively engage in this process.

The Program supports the Mexican justice sector in its transition to an accusatorial legal system by:

- Establishing a working group to promote local ownership of reforms and training;
- Supporting bar associations via:
 - Conducting an assessment of the legal profession to serve as the basis for recommendations for reform;
 - Training on skills for the oral, adversarial system; and
 - Leading a bar association study tour.
- Supporting law schools via:
 - Conducting an assessment of the legal education to serve as the basis for recommendations for reform;
 - o Training on skills for the oral, adversarial system; and
 - Leading a law school study tour.
- Conducting judicial exchanges via:
 - Supporting professional peer exchanges, including "Sister Courthouse" visits; and
 - Awarding a follow-on subgrant to ensure program sustainability beyond the life of the program.

Personnel

Resident Program staff includes Country Director, Mr. Alonso González Villalobos; Deputy Country Director, Ms. Katia Ornelas Núñez; Field Financial Manager, Ms. Gabriela Cruz Ortiz; and Administrative Assistant, Ms. Sandra Quintana Hamelius. In addition, the Program recruited an intern, Ms. Mara Medina, to provide research and programmatic support for an initial period of three months as of April 2011.

The Program is supported in Washington, D.C. by the Latin America and the Caribbean Division, including Michael McCullough, Director; Chantal Agarwal, Program Manager; Jeremy Biddle, Program Officer; and Adriana Courembis, Program Associate.





B. RESULTS SUMMARY

Working Group for Legal Education & Legal Profession Reform

During the reporting period, members of the Working Group for Legal Education and Legal Profession Reform demonstrated a high level of engagement with the program through their participation in various programmatic activities, and likewise, the Program regularly informed members of the Program's activities. The most illustrative example of the members' engagement was their participation in a week-long study tour to Chicago that began on June 26 and will end on July 2, 2011. The details and highlights of this activity, entitled "A look at Legal Education, the Legal Profession and the Legal System in the U.S.," will be reported in the "Support for Bar Associations" and "Support for Law Schools" sections below.

In addition, throughout the reporting period, the Program also met regularly with the heads of the *Barra Mexicana Colegio de Abogados*, the Mexico chapter of the Inter-American Bar Association and the *Asociación Nacional de Abogados de Empresa* ("ANADE") to discuss collaborative efforts. During these consultations, the Program engaged in informational exchanges and expanded its network of contacts.

Lastly, the Program held meetings with ANADE's president, Mr. Gerardo Nieto, in order to coordinate his participation at the ABA Annual Meeting in Toronto, which will take place from August 4-9, 2011. Mr. Nieto has been invited and sponsored by the ABA to participate as a distinguished guest and keynote speaker on the panel entitled, "The Role of Lawyers During Times of Transition—Lessons from Mexico, Nepal and the Middle East," on August 6, 2011. This panel will convene ROLI speakers from overseas to consider the various roles of lawyers during times of legal, political and social transitions. Mr. Nieto will present lessons from Mexico in regards to the strengthening of the country's legal profession, including the challenges ahead and the role played by lawyers in the transition to the adversarial legal system. This will be the first time this topic has been presented at an ABA Annual Meeting since the passing of the constitutional reforms in 2008. It is expected that around 8,000 ABA members and supporters from around the world will participate in this event.

Support for Bar Associations

Legal Profession Reform Index

As outlined in the Program's work plan, the Legal Profession Reform Index ("LPRI") is an assessment tool, which utilizes 24 qualitative factors to examine thematic areas such as admission to the profession, standards of practice, professional ethics and conduct,





governance and independence of bar associations, and licensing.

While the prior quarter focused on the interviewing process, this quarter the Program collaborated with Ms. Linn Hammergren, the assessor, to produce a preliminary draft of the report. In addition, the Country Director continued assisting by researching on and writing the report's legal background section. As part of these researching duties, the Director consulted with various state and federal authorities – including the *Secretaría del Consejo de Coordinación para la Implementación del Sistema de Justicia* Penal or SETEC – in order to secure further statistical information that would enrich the first draft of the LPRI. A final draft of the LPRI is scheduled to be presented to the Working Group in Q1 CY 2012 for the above-mentioned peer review process.

It should be noted that other components of this program will serve to enrich the final product of the LPRI. For example, the study tour to Chicago, described below, will contribute to the LPRI by allowing the Program's Working Group members to meet with their U.S. counterparts and gain a deeper understanding of the U.S. legal system. The insights gained during this trip, in turn, will be invaluable in stimulating the critical reflection and dialogue needed to support the Working Group's peer review of the final draft of the LPRI as well as the subsequent creation of the "Reform Guide for Legal Profession and Legal Education in Mexico."

Curriculum Development and Training

Program staff, in conjunction with Working Group members, finalized training materials and utilized them in the two oral advocacy workshops that took place during this quarter, one in Pachuca and the other in Mexico City. Each workshop lasts five days, the first four of which are dedicated instruction, demonstration and practice, while the last day is reserved for a mock trial proceeding in which students apply the lessons learned throughout the week. These workshops are designed for law school faculty and private practitioners in order to bolster their understanding of key oral advocacy skills required under the country's new criminal justice system. ABA ROLI Mexico's trainings are unique (with respect to other institutional programs, national or international) in at least four regards:

- (i) Participants are interdisciplinary, targeting private practitioners and university professors, to maximum reach and sustainability;
- (ii) Each training includes a full one-day orientation for international and national trainers provided by ABA ROLI Mexico staff on the 2008 constitutional reform, highlighting challenges and accomplishments. This is to ensure that prior to appearing before the group, all trainers have a reasonably well-balanced understanding of the real situation in the country;
- (iii) The training starts off by devoting the first two modules to describing the 2008 constitutional reform, and highlighting the importance of ethics in the accusatorial





system. Both topics are then re-addressed at the training's closing session; and (iv) The team of trainers always includes a mix of international and Mexican trainers. This approach helps the Program maintain a balance between local operators and trainers from other cultural, legal and social realities.

In this last regard, the Program selected only the most qualified trainers for both workshops carried out this quarter. For each, the Program received over 20 applications, which were all evaluated based on credentials, previous experience in oral litigation trainings in Latin America, Spanish language proficiency and knowledge of Mexico's criminal justice system.

Moreover, it is worth highlighting that in the current quarter the Program met with SETEC's Deputy Director for Training in order to explore the possibility of having SETEC'S endorsement of ABA ROLI Mexico's training materials. In this meeting SETEC expressed its short- and long-term goals and strategy, and expressed its appreciation for the training the ABA ROLI Program is implementing. SETEC agreed to maintain contact with ABA ROLI to keep apprised of the Program's activities.

First Oral Advocacy Training in Pachuca, Hidalgo

From Wednesday, March 30 to Sunday, April 3, 2011, ABA ROLI held its first training on oral advocacy skills at the *Universidad La Salle* in Pachuca, which hosted the event at no cost, saving the Program \$13,071.³ The five-day workshop was attended from start to finish by 53 private practitioners and law faculty from at least one bar association and seven law schools based in Pachuca, Hidalgo.

The Barra Mexicana, Colegio de Abogados de Hidalgo, A.C., contributed greatly to the logistical organization of



Participants in ABA ROLI's first oral advocacy training in Pachuca, Hidalgo prepare for a mock trial under the supervision of their trainer.

¹ From the U.S., Puerto Rico, Colombia, Argentina, Chile and elsewhere.

² The majority of whom are past beneficiaries of USAID or other U.S.-funded programs.

³ The total was recorded as MXP \$155,000, equivalent to USD \$13,071 based on Oanda.com's exchange rate for the last day of the workshop, April 3, 2011.





the event and also also defrayed the lodging costs for instructors, an additional in-kind contribution of \$1,687.4

ABA ROLI identified and facilitated a diverse team of five expert instructors, comprised of two U.S. trainers highly familiar with the Mexican system, and three Mexican trainers, who were beneficiaries of USAID/Mexico's programs in the past. In this regard, the Program relied on its unique network of legal experts both in the U.S. and in Mexico to add value to the curriculum being delivered. Participants appreciated the array of experiences and view points presented throughout the training. The participant feedback regarding this type of diversity of instructors was very positive.

Regarding overall feedback, the Program conducted two surveys, one at the beginning and the other at the end of the event, in order to assess the training's impact. The results of the baseline and endline surveys show that participants' knowledge and understanding of the accusatorial system and oral advocacy skills were dramatically increased by the workshop, and, also, that all of them would be highly interested in attending future trainings (See Attachment C for detailed survey results, and Attachment D for a newsletter publication released in April, 2011, in connection with this specific training).

Second Oral Advocacy Training in Mexico City, Mexico

From Tuesday, May 24 to Saturday, May 28, 2011, ABA ROLI successfully completed its second training on oral advocacy skills at the Universidad La Salle-Mexico City, which hosted the event at no cost, saving the Program approximately \$5,000. five-day The training was completed by 53 private practitioners and law faculty convened by five bar associations and nine law schools based in the greater Mexico City area.

As was the practice with the first training, the Program, this second



US and Mexican trainers at ABA ROLI's second oral advocacy training in Mexico City award certificates to successful participants.

training was taught by a diverse team of instructors comprised of three U.S. trainers highly familiar with the Mexican system and two Mexican trainers who were past beneficiaries of USAID/Mexico and local ABA ROLI staff.

⁴ The total was recorded as MXP \$20,000, equivalent to USD \$1,687 based on Oanda.com's exchange rate for the last day of the workshop, April 3, 2011.





According to the results of the pre- and post-training surveys, as was the case in the first workshop in Pachuca, participants showed a vast improvement in knowledge and understanding of the accusatorial system (See Attachment C for detailed survey results).

Study Tour for Bar Associations

In Q1 CY 2011 at the Working Group's second general meeting, a decision was made to combine the bar association and law school study tours into one joint event. This combined study tour would cover topics related to the legal profession and legal education systems in the U.S. to improve Working Group members' understanding of these closely-linked sectors. It would also afford Working Group members the opportunity to observe and interact with U.S. institutions involved in the education and regulation of legal



Working Group members attend a presentation on teaching methodology for trial advocacy skills at the Chicago-Kent College of Law during the Program's study tour to Chicago.

practitioners, which provide them a comparative perspective to reflect upon needed reforms legal education and the profession in Mexico. Lastly. ioint trip would facilitate the interaction between different members of the Working Group and promote the sustainability of the Program's objectives.

Thus, the Program successfully planned and launched the study tour in Chicago entitled, "A Look at Legal Education, the Legal Profession and the Legal

System in the U.S.," which commenced on June 26, and is slated to end on July 2, 2011. The delegation, composed of 24 members of the Program's Working Group for Legal Education and Legal Profession Reform from ten cities throughout Mexico, flew to Chicago, Illinois, to take part in a week-long visit (See Attachment A for a list of participants).

Chicago was selected as the study tour destination for two reasons: first, it is the site of the ABA's headquarters; and second, the city is home to important law schools that bring added value to the tour's legal education component. In general terms, the agenda started with an overview of legal education and will finish with an introduction to the systems that govern the legal profession in the U.S. The underlying logic is to guide Working Group members through the path followed by an aspiring lawyer in the U.S., including classes





provided to law students on oral litigation skills. As such, the agenda included meetings with Chicago-Kent College of Law, the Illinois Attorney Registration and Disciplinary Commission, the Chicago Bar Association, and visits to the ABA headquarters and several of its divisions, such as the ABA Center for Professional Responsibility and the ABA Center for Continuing Legal Education, as well as a visit to federal and state courts. The tour will end with a visit to a large private law firm to gain a fresh perspective on *pro bono* legal practice in the U.S. (See Attachment B for a detailed agenda).

As mentioned before, once completed, the trip will have helped Working Group members gain a fresh perspective on the legal profession and legal education. Designed to explore these inter-related topics in a holistic manner while also maximizing resources, the tour will help foster continued dialogue and deepened ties between senior-level Mexican bar association and law school representatives. Allowing Working Group members to observe and interact with U.S. institutions involved in the education and regulation of legal practitioners will equip them with a comparative approach to reflect upon Mexican legal education and legal profession reforms. Topics discussed in the various meetings will range from oral advocacy skills and teaching methodology to ethics and legal curricula at large, including, in addition, professional responsibility, standards for admission to the profession, continuing legal education and advocacy for the profession.

In addition, the study tour will inspire a roadmap of best practices for participants and their institutions, as well as for other law schools and bar associations, via a "Lessons Learned" document that tour participants will be tasked with creating upon their return to Mexico.

It is worth noting that all local counterparts in Chicago offered their time to host the Mexican delegation *pro bono*, contributing a total of \$47,595.50 of in-kind cost share.

Support for Law Schools

Legal Education Reform Index ("LERI")

As reported in prior quarters, the LERI is a qualitative diagnostic tool designed to assess a country's legal education system based on 22 factors including licensing, accreditation, and evaluation of law schools; curriculum and teaching methodology; student evaluation and awarding of degrees; and institutional capacity. Last quarter, Mr. Luis Fernando Pérez Hurtado, head of the *Centro de Estudios sobre la Enseñanza y el Aprendizaje del Derecho* ("CEEAD"), was hired as the LERI assessor and conducted various interviews for the report. This quarter, Mr. Pérez Hurtado submitted a preliminary draft. The Country Director also provided inputs towards the country background section, which will serve as a primer on the legal education system in Mexico for audiences not familiar with it.

As is the case for the LPRI, the Chicago study tour will also contribute to Working Group members' peer review of the final draft of the LERI as well as the subsequent creation of





the "Reform Guide for Legal Profession and Legal Education in Mexico." A final draft of the LERI is scheduled to be presented to the Working Group in Q1 CY 2012 for the previously-mentioned peer review process.

Curriculum Development and Training

Curriculum development and training for law schools were implemented in the same fashion as for bar associations. Given that these components are conducted jointly, please refer above to pages 4-6 of this report for further information.

Study Tour for Law Schools

As mentioned previously, this component was combined with the bar association study tour to: i) ensure that the inter-related topics of legal profession and legal education reform are explored in a holistic manner; ii) maximize resources; and iii) foster continued dialogue and strengthen ties between Working Group members and, by extension, Mexican bar associations and law schools. More details of the Working Group study tour are provided on pages 6-8 of this report.

More specifically, in regards to the legal education component of the study tour, the tour group spent the entire first day at ITT Chicago-Kent College of Law. Not only did the Chicago-Kent staff present a model law school curriculum; they also arranged for the delegation to participate in a mock trial. Students from Chicago-Kent's mock trial team

held a live simulation of a murder case in the school's state-of-the-art mock courtroom. Members of the Mexican delegation were able to play the role of jury in the trial, while witnessing first-hand an adversarial court proceeding in action.

The Mexican delegation also heard a presentation entitled, "Courtroom Advocacy: from Teaching to Practice," which discussed the basic skills needed for litigation as well as teaching



Participants in the Working Group study tour attend presentations on the U.S. legal system at Chicago-Kent College of Law.

methodologies employed by law professors. Additionally, the lecture, held by two senior trial advocacy trainers, covered the role of curriculum development and legal clinic programs. The presentation highlighted mandatory versus elective courses, and the





importance of structured, practical courses geared towards helping students acquire the oral advocacy skills critical for lawyers practicing in the accusatorial system.⁵

As highlighted above, in addition to the fresh insight Working Group members will have gained into legal curriculum reform and legal education in the U.S., a concrete output of the study tour will be a roadmap of best practices for participants and their institutions, as well as for other law schools and bar associations, via a "Lessons Learned" document that tour participants will be tasked with creating upon their return to Mexico.

Judicial Exchanges

Professional Peer Exchanges

During this quarter, the Program coordinated and carried out its first "Sister Courthouse" exchange to El Paso, Texas, described below.

Sister Courthouses

This quarter, the program held the first of a series of "Sister Courthouse" visits to El Paso, Texas on April 18-19, 2011. This two-day exchange brought nine Mexican judges to El Paso, Texas, where they were welcomed by a U.S. delegation of state and federal judges led by the Hon. Phillip Martinez, U.S. District Judge (Western District of Texas). The Mexican delegation included pre-trial, trial and appellate judges from the state of Chihuahua, all of whom specialize in criminal law.



Mexican judges exchange ideas with their U.S. counterparts during the first "Sister Courthouse" exchange to El Paso, Texas.

This visit involved attending various hearings in both state and federal courthouses, participating

in roundtable discussions, and taking part in dinner meetings where both the Mexican and U.S. delegations had an opportunity to share their experiences in the accusatorial system and exchange insights into their respective realities. In addition, there was a meeting with

⁵ Such courses include: "Civil Procedures," "Complex Litigation," "Criminal Procedure," and "Trial Advocacy."





public prosecutors and defendants based in El Paso, who presented on the challenges they have faced operating within the accusatorial system.

At the end of the event, the Program conducted a survey, in which all Mexican participants reported that the visit i) enhanced their understanding of the accusatorial system, and ii) helped them better understand the U.S. legal system. Participants also confirmed their view that such an exchange to bridge the judiciary in Chihuahua with their counterparts in El Paso is extremely useful and expressed their strong interest in attending future exchanges, including hosting a visit of El Paso judges to Chihuahua.

After the successful completion of the El Paso visit, the Country Director met with senior-level officials from the judicial and executive branches in Chihuahua, such as the state's Supreme Court Chief Justice, the Hon. Javier Ramírez Benítez, to ensure the sustainability of the "Sister Courthouse" program.

In the next quarter, two exchanges are slated, preparations for which have started being made in the current reporting period:

- a) The second "Sister Courthouse" exchange between Baja California and San Diego is planned for August 11-12, 2011. For such purposes, the Program staff met with the Baja California State Court Chief Justice, Judge María Esther Rentería, in April, 2011 in order to formally invite the Baja California judiciary to take part in the upcoming exchange. Chief Judge Rentería confirmed her interest and further expressed her willingness to undertake broader areas of collaboration in the future. In the U.S., Hon. M. Margaret McKeown of the Ninth Circuit Court of Appeals and chair of ABA ROLI's Latin America and Caribbean Council, has been working closely with the Program to finalize the programmatic aspect of the visit, especially regarding the agenda.
- b) Further, the Program made initial contact with Hon. Phillip Martinez for a follow-up exchange between Chihuahua and El Paso. This visit is tentatively scheduled to take place in September, 2011.

The Program's first "Sister Courthouse" visit to El Paso confirmed the value of facilitating direct contact between Mexican and U.S. judges through people-to-people exchange. The frank dialogue and open sharing of ideas between both delegations has enriched them both. Surveys conducted at the end of the event, confirm the real impact caused to the Mexican delegation. Please see tables 5, 6 and 7 in attachment C.

Study Tour – Judicial Sector

In this quarter, the Program continued exploring various options for its judicial study tour, and corresponded with Mexican state judges to continue gauging their interest in participating in such an exchange. Apparently, collective interest is inclined towards





visiting countries such as Chile and Colombia, whose adversarial systems are viewed as closer to Mexico's own under the new constitutional reform. As reported in previous quarters, the purpose of such a tour will be to allow participants to gain first-hand, inperson experience of the everyday management of a court operating under the adversarial legal system. In upcoming quarters, the Program will continue laying the groundwork for the tour scheduled for 2012.

Follow-on Subgrant(s)

No activities were conducted this quarter towards the planned sub-grant. Activities with the sub-grantee(s) will closely follow progress in the "Sister Courthouse" program and study tour to be implemented in the future, as outlined in the Program's work plan. These will be developed in conjunction with the Working Group and relevant state judiciary councils to promote continuity and sustainability.

Overall, during this quarter, as in previous ones, the Program witnessed tremendous progress towards its stated program objectives and its overarching goal of supporting the strengthening of the legal education and legal profession regimes. As outlined throughout this report, this quarter witnessed a number of major programmatic accomplishments. Below find special highlights on the Program's trial advocacy workshops.

Success Stories

The First and Second Trial Advocacy Workshops in Pachuca, Hidalgo and Mexico City

As mentioned above, the Program's first and second trial advocacy trainings were completed this quarter. Both trainings were highly successful. According to pre- and post-training survey results in Attachment C, participants reported dramatic improvements in their knowledge and understanding of the accusatorial system⁶ and their oral advocacy skills⁷ as a result of the workshop.

The following story, which was kindly shared by one participant, helps illustrate the powerful, human impact of the Program's oral advocacy training and how it is equipping private attorneys and law professors in Mexico with the tools needed to face the criminal justice reform.

Changing Paradigms

⁶ Please see table 1 and 3 in Attachment C.

⁷ Please see table 2 and 4 in Attachment C.





Eduardo⁸ was indicted for homicide. The Harrison test, which demonstrates if a person has used a gun, was never applied to him. The only proof against him was the testimony of a minor, who never appeared before a judge.

After ten years working in the legal field and defending many cases like Eduardo's, Patricia Rodriguez Garcia was cautiously optimistic about the Mexican government's decision to implement an adversarial system.



First skeptical, Patricia Rodriguez Garcia, a practicing lawyer and teacher is now determined to support reforms.

When this decision was taken in 2008, Mexico approved an amendment to its Constitution to transition from a mixedinquisitorial and written system to an oral, adversarial legal system nationwide by 2016. This is the most comprehensive reform to Mexico's criminal justice system since the country's constitution was created in 1917.

At about the time of the passing of the constitutional amendment, Patricia had recently started teaching in Tulancingo, a small city in Hidalgo state, and was curious about the new system. She wanted to attend trial advocacy training but was unable to, whether because of geographical or financial constraints.

Recently, when Patricia learned about ABA ROLI's workshop on oral litigation skills for law school faculty and bar associations members in Pachuca, Hidalgo - about 30 minutes away from Tulancingo – she immediately signed up.

"First of all," she started, "it changed my mind about the reform. Initially I had a different opinion about oral trials. I thought it would not change the current legal system much, and that corruption would still infiltrate the new system, or make it even worse. However, after the training, I realized that the reforms will bring positive change." She continued by explaining that lawyers would have to be extremely well prepared to represent their clients under the new system and that coyotes9 would need to be weeded out. Patricia added that in the past criminal justice system, "some lawyers would only flip through a file before arguing a case."

She looks forward to the new improved system, one based on qualified lawyers and judges instead of nepotism, and concluded that those unprepared to work in this new system will automatically be expelled, as "our credibility is on the line." "The training gave me practical tools and now my students will have up-to-date information regarding the new system."

740 15th St, NW

⁸ This is a pseudonym.

⁹ Lay people who pretend to be lawyers.